

2011 DRAFTING REQUEST

Bill

Received: **01/26/2011**

Received By: **gmalaise**

Wanted: **As time permits**

Companion to LRB:

For: **Joel Kleefisch (608) 266-8551**

By/Representing: **A.J. Salas**

May Contact:

Drafter: **gmalaise**

Subject: **Discrimination**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kleefisch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Employment discrimination based on conviction record; exception for sex offenses and violent offenses; preemption of local ordinances

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|------------------------|------------------------|------------------------|----------------|-----------------------|-----------------------|-----------------|
| /? | gmalaise 01/26/2011 | wjackson 02/15/2011 | | | | | S&L |
| /1 | | | rschluet 02/15/2011 | | lparisi 02/15/2011 | | S&L |
| /2 | gmalaise 08/16/2011 | kfollett 08/29/2011 | rschluet 08/29/2011 | | mbarman 08/29/2011 | lparisi 09/14/2011 | |

FE Sent For:

at intro
9-29-11

<END>

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| /? | gmalaise 01/26/2011 | wjackson 02/15/2011 | | | | | S&L |
| /1 | | 12 wls 8/29 rschlue 02/15/2011 | | | lparisi 02/15/2011 | | |

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| /? | gmalaise | 1/15/11 |  | _____ | _____ | | |
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FE Sent For:

<END>

IN 1126

2007 ASSEMBLY BILL 260

April 13, 2007 - Introduced by Representatives KLEEFISCH, GUNDERSON, GUNDRUM, MUSSEY, NASS, A. OTT, OWENS, PETERSEN, SUDER, TOWNSEND and ZIEGELBAUER, cosponsored by Senators LAZICH, LEIBHAM, GROTHMAN and ROESSLER. Referred to Committee on Criminal Justice.

Regen

1 AN ACT *to amend* 111.335 (1) (c) 1.; and *to create* 111.31 (6), 111.335 (1) (c) 3.,
 2 111.335 (1) (c) 4. and 111.335 (2) of the statutes; **relating to:** permitting an
 3 employer to refuse to employ or to terminate from employment an individual
 4 who has been convicted of a sex offense or a violent offense and preempting
 5 cities, villages, town^S, and counties from adopting provisions concerning
 6 employment discrimination based on arrest or conviction record that prohibit
 7 activity that is allowed under the state fair employment law.

Analysis by the Legislative Reference Bureau

The current state fair employment law, subject to certain exceptions, prohibits discrimination in employment based on arrest or conviction record. That law specifies, however, that it is not employment discrimination because of conviction record to refuse to employ or to terminate from employment an individual who has been convicted of a felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of the particular job. This bill specifies that it is not employment discrimination because of conviction record for an employer to refuse to employ or to terminate from employment an individual who has been convicted of a sex offense or a violent offense and who has not been pardoned for that offense, whether or not the circumstances of the offense substantially relate to the circumstances of the particular job.

ASSEMBLY BILL 260

Under current constitutional and statutory home rule provisions, a city or village may determine its own local affairs subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every city or village with uniformity. This bill states that the prohibition against discrimination in employment based on arrest or conviction record under the state fair employment law is a matter of statewide concern, requiring uniform enforcement at the state, county, and municipal levels. As such, the bill prohibits any county, city, village, or town from adopting any provision concerning employment discrimination based on arrest or conviction record that prohibits any activity that is allowed under the state fair employment law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 111.31 (6) of the statutes is created to read:

2 111.31 (6) The legislature finds that the prohibition against discrimination on
3 the basis of arrest or conviction record under s. 111.335 is a matter of statewide
4 concern, requiring uniform enforcement at the state, county, and municipal levels.

5 **SECTION 2.** 111.335 (1) (c) 1. of the statutes is amended to read:

6 111.335 (1) (c) 1. Has been convicted of any felony, misdemeanor or other
7 offense the circumstances of which substantially relate to the circumstances of the
8 particular job or licensed activity; ~~or,~~ ✓

9 **SECTION 3.** 111.335 (1) (c) 3. of the statutes is created to read:

10 111.335 (1) (c) 3. Has been convicted of a sex offense, as defined in s. 301.45 (1d)
11 (b), ✓ or found to have committed a violation of federal law or the law of another state
12 that would be a sex offense, as defined in s. 301.45 (1d) (b), ✓ if committed in this state,
13 and who has not been pardoned for that sex offense.

14 **SECTION 4.** 111.335 (1) (c) 4. ✓ of the statutes is created to read:

ASSEMBLY BILL 260

1 111.335 (1) (c) 4. Has been convicted of a violent offense, as defined in s. 301.048
2 (2) (bm) 1., or found to have committed a violation of federal law or the law of another
3 state that would be a violent offense, as defined in s. 301.048 (2) (bm) 1., if committed
4 in this state, and who has not been pardoned for that violent offense.

5 SECTION 5. 111.335 (2) of the statutes is created to read:

6 111.335 (2) No county, city, village, or town may adopt any provision concerning
7 employment discrimination based on arrest or conviction record that prohibits any
8 activity that is allowed under this section.
9

(END)

SECTION # Initial Applicability.

init app.

(1) (c) 3. CONVICTION FOR SEX OFFENSE OR VIOLENT OFFENSE

The treatment of section 111.335 (1)(c) 3. and 4. of the statutes first applies to a decision to refuse to employ or to terminate from employment an individual made on the effective date of this subsection.

Malaise, Gordon

From: Kundert, Stephanie
Sent: Thursday, August 11, 2011 4:44 PM
To: Malaise, Gordon
Cc: Kleefisch, Joel; Childs, Niccole
Subject: LRB 1179

Attachments: 11-11791.pdf

Hi Gordon,

I hope you are having a good week. I recently started working in Rep. Kleefisch's office and one of the bills he has on deck for introduction is LRB 1179, relating to permitting an employer to terminate or refuse to employ an individual who has been convicted of a sex offense or a violent offense. I noticed you are the drafter of this legislation.

I have just a minor change to request for the bill, please. We would like the language to reflect that which was included in 2001 Assembly Bill 186. Rather than referring to those "convicted of a sex offense or a violent offense," we would like the bill to state "an individual who has been convicted of a felony and who has not been pardoned for that felony, whether or not the circumstances of the felony substantially relate to the circumstances of the particular job" as is written in 2001 Assembly Bill 186.

I am actually leaving tomorrow to go on vacation for the next two weeks, so please feel free to include my co-worker, Niccole, when submitting the new draft of LRB 1179. I will follow-up with you upon my return if there are any lingering questions or concerns.

Thank you very much!

Stephanie



11-11791.pdf (32
KB)

Stephanie L. Kundert
Office of Representative Joel Kleefisch
Member, Joint Committee on Finance
38th Assembly District
321 East, State Capitol
Madison, WI 53708
608.266.8552
stephanie.kundert@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1179/4
GMM:wlj:rs

(2)
AMZ

↑
Stays

IN 8/16

2011 BILL

LPS: Please
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sheet.

felony and who has not been pardoned for that felony

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Regenerate

1 AN ACT to amend 111.335 (1) (c) 1.; and to create 111.31 (6), 111.335 (1) (c) 3.,
2 111.335 (1) (c) 4. and 111.335 (2) of the statutes; relating to: permitting an
3 employer to refuse to employ or to terminate from employment an individual
4 who has been convicted of a ~~sex offense or a violent offense~~ and preempting
5 cities, villages, towns, and counties from adopting provisions concerning
6 employment discrimination based on arrest or conviction record that prohibit
7 activity that is allowed under the state fair employment law.

Analysis by the Legislative Reference Bureau

The current state fair employment law, subject to certain exceptions, prohibits discrimination in employment based on arrest or conviction record. That law specifies, however, that it is not employment discrimination because of conviction record to refuse to employ or to terminate from employment an individual who has been convicted of a felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of the particular job. This bill specifies that it is not employment discrimination because of conviction record for an employer to refuse to employ or to terminate from employment an individual who has been convicted of a ~~sex offense or a violent offense~~ and who has not been pardoned for that offense, whether or not the circumstances of the offense substantially relate to the circumstances of the particular job.

felony

bar or

felony

felony

BILL

Under current constitutional and statutory home rule provisions, a city or village may determine its own local affairs subject only to the Wisconsin Constitution and to any enactment of the legislature that is of statewide concern and that affects every city or village with uniformity. This bill states that the prohibition against discrimination in employment based on arrest or conviction record under the state fair employment law is a matter of statewide concern, requiring uniform enforcement at the state, county, and municipal levels. As such, the bill prohibits any county, city, village, or town from adopting any provision concerning employment discrimination based on arrest or conviction record that prohibits any activity that is allowed under the state fair employment law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 111.31 (6) of the statutes is created to read:

2 111.31 (6) The legislature finds that the prohibition against discrimination on
3 the basis of arrest or conviction record under s. 111.335 is a matter of statewide
4 concern, requiring uniform enforcement at the state, county, and municipal levels.

5 **SECTION 2.** 111.335 (1) (c) 1. of the statutes is amended to read:

6 111.335 (1) (c) 1. Has been convicted of any felony, misdemeanor or other
7 offense the circumstances of which substantially relate to the circumstances of the
8 particular job or licensed activity; or.

9 **SECTION 3.** 111.335 (1) (c) 3. of the statutes is created to read:

10 111.335 (1) (c) 3. Has been convicted of a sex offense, as defined in s. 301.45 (1d)
11 (b), or found to have committed a violation of federal law or the law of another state
12 that would be a sex offense, as defined in s. 301.45 (1d) (b), if committed in this state,
13 and who has not been pardoned for that sex offense.

14 **SECTION 4.** 111.335 (1) (c) 4. of the statutes is created to read:

BILL

1 111.335 (1) (c) 4. Has been convicted of a violent offense, as defined in s. 301.048
 2 (2) (bm) 1., or found to have committed a violation of federal law or the law of another
 3 state that would be a violent offense, as defined in s. 301.048 (2) (bm) 1., if committed
 4 in this state, and who has not been pardoned for that violent offense.

5 **SECTION 5.** 111.335 (2) of the statutes is created to read:

6 111.335 (2) No county, city, village, or town may adopt any provision concerning
 7 employment discrimination based on arrest or conviction record that prohibits any
 8 activity that is allowed under this section.

9 **SECTION 6. Initial applicability.**

10 ~~EMPLOYMENT DISCRIMINATION; CONVICTION FOR FELONY.~~
 (1) ~~CONVICTION FOR SEX OFFENSE OR VIOLENT OFFENSE.~~ The treatment of section

11 111.335 (1) (c) ~~3 and 4~~ of the statutes first applies to a decision to refuse to employ
 12 or to terminate from employment an individual made on the effective date of this
 13 subsection.

14 (END)

and (c) 3.
and (c) 4.

, the renumbering and amendment of
section 111.335 (1) (c) of the
statutes, and the creation of
Section 111.335 (1) (c) 2. to 4.
of the statutes

1179/2

RPR

Inset 3-4

11
2003 ASSEMBLY BILL 353

May 20, 2003 - Introduced by Representatives HUNDERTMARK, ZIEGELBAUER, SUDER, NASS, HINES, LEMAHIEU, OWENS, SERATTI, GROTHMAN, J. FITZGERALD and VRAKAS, cosponsored by Senators DARLING, LEIBHAM and ROESSLER. Referred to Committee on Labor.

1 AN ACT *to repeal* 111.335 (1) (cg) 3. and 111.335 (1) (cv); *to renumber and*
2 *amend* 111.335 (1) (cm); *to amend* 111.335 (1) (c); and *to create* 111.335 (1)
3 (cm) 2. to 4. of the statutes; **relating to:** permitting an employer to refuse to
4 employ, or to bar or terminate from employment, an individual who has been
5 convicted of a felony and who has not been pardoned for that felony.

Analysis by the Legislative Reference Bureau

Current law, subject to certain exceptions, prohibits discrimination in employment based on conviction record. Current law specifies, however, that it is not employment discrimination because of conviction record to refuse to employ, or to bar or terminate from employment, any individual who has been convicted of any felony, misdemeanor, or other offense, the circumstances of which substantially relate to the circumstances of the particular job. This bill ~~expands that exception to the prohibition against employment discrimination based on conviction record by specifying~~ that it is not employment discrimination because of conviction record to refuse to employ, or to bar or terminate from employment, an individual who has been convicted of a felony and who has not been pardoned for that felony, whether or not the circumstances of the felony substantially relate to the circumstances of the particular job.

specifies

Insert 3-4

LPS:
Please
P.W.F.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 111.335 (1) (c) of the statutes is amended to read:

111.335 (1) (c) Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ or license, or to bar or terminate from employment or licensing, any individual who of the following:

1. Has An individual who has been convicted of any felony, misdemeanor, or other offense the circumstances of which substantially relate to the circumstances of the particular job or licensed activity; or

2. Is An individual who is not bondable under a standard fidelity bond or an equivalent bond where when such bondability is required by state or federal law, or administrative regulation or established business practice of the employer.

SECTION 2. 111.335 (1) (cg) 3. of the statutes is repealed.

SECTION 3. 111.335 (1) (cm) of the statutes is renumbered 111.335 (1) (cm) (intro.) and amended to read:

111.335 (1) (cm) (intro.) Notwithstanding s. 111.322, it is not employment discrimination because of conviction record to refuse to employ ~~as an installer of burglar alarms a person, or to~~ bar or terminate from employment, any of the following:

1. An individual who has been convicted of a felony and who has not been pardoned for that felony.

SECTION 4. 111.335 (1) (cm) 2. to 4. of the statutes are created to read:

ASSEMBLY BILL 353

1 111.335 (1) (cm) 2. An individual who has been convicted of a felony, the
2 circumstances of which substantially relate to the circumstances of the particular
3 job, and who has been pardoned for that felony.

4 3. An individual who has been convicted of a misdemeanor or other offense, the
5 circumstances of which substantially relate to the circumstances of the particular
6 job.

7 4. An individual who is not bondable under a standard fidelity bond or an
8 equivalent bond when such bondability is required by state or federal law,
9 administrative regulation, or established business practice of the employer.

10 SECTION 5. 111.335 (1) (cv) of the statutes is repealed.

11 ~~(END)~~

(cedot inc)

^ as affected by 2011 Wisconsin Act 32,

• **Parisi, Lori**

From: Kundert, Stephanie
Sent: Wednesday, September 14, 2011 9:01 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-1179/2 Topic: Employment discrimination based on conviction record; exception for sex offenses and violent offenses; preemption of local ordinances

Please Jacket LRB 11-1179/2 for the ASSEMBLY. Thank you!

Stephanie Kundert
Office of Rep. Kleefisch